

September 18, 2019

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Re: USTelecom Ex Parte Notice, WC Docket No. 18-155, *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*

Dear Ms. Dortch:

USTelecom has been a longtime supporter of the Commission's efforts to end access arbitrage.¹ As an association representing a range including the largest interexchange carriers, midsize ILECs, and some of America's smallest communications providers, USTelecom supports the Commission moving forward with its proposed item creating additional mechanisms for identifying and removing arbitrage opportunities from the system.² If approved, the Draft Order will undoubtedly serve to make the access charge system more efficient, to the ultimate benefit of the American public.

While USTelecom broadly supports the item, there are some changes that would improve implementation of the Draft Order. First, USTelecom agrees with including a rebuttable presumption whereby rural local exchange carriers (RLECs) that have a traffic ratio in excess of a 6:1 terminating to originating minute ratio can demonstrate that the traffic imbalances are due to legitimate purposes. For example, one of USTelecom's smaller LECs has a customer that is a call center for one of the world's largest companies and, as a result, has a traffic balance that is already at 7:1. The Commission should establish a streamlined process for LECs to demonstrate the legitimacy of their traffic so as to avoid sweeping otherwise good actors into an unwarranted penalty situation. This solution will allow the Commission to ensure that its rules still have the appropriate teeth to cut down on arbitrage while still also allowing companies to conduct legitimate business unimpeded. Still, USTelecom supports T-Mobile's request to include a footnote stating that any attempts by any carrier or provider to circumvent the Commission's 6:1 ratio by any means, including "re-origination" of voice traffic, is prohibited.³

Second, USTelecom supports the concept proposed by NTCA that "the Commission should periodically review changes to the definition of access stimulation to ensure it keeps pace with

¹ See Letter from NTCA, AT&T, Verizon, Windstream, NCTA, Frontier, WTA, and USTelecom to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, WC Docket No. 16363 at 1 (filed Nov. 16, 2017).

² *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, Report and Order and Modification of Section 214 Authorizations, WC Docket No. 18-155, FCC-CIRC 1909-02 (Draft Order).

³ See Letter from Todd D. Daubert, Counsel to T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-155 (filed Sept. 11, 2019).

marketplace changes.”⁴ Given the continuing changes in wireline adoption and call usage, periodically refreshing the correct ratios of what should be considered an access stimulator is appropriate. NTCA suggests that the Commission should do such a refresh every two years, which USTelecom supports as a reasonable timeframe.

Finally, USTelecom requests the Commission add a footnote to paragraph 68 to the end of the third sentence, which begins “We expect that” The purpose of the new footnote is to ensure that interexchange carriers can act quickly to end access stimulation arbitrage situations that have been ongoing and taking advantage of the system against the public interest. USTelecom requests the new footnote should state: “Consistent with our analysis above, those LECs classified as access stimulators upon the effective date of this order remain access stimulators unless and until they cease access stimulation for six consecutive months. *See supra* para. 47; 47 CFR § 61.3(bbb)(2).”

With these changes, USTelecom encourages the Commission to move forward and adopt the Draft Order expeditiously.

Please contact me with any questions.

Sincerely,

_____/s/____

Mike Saperstein
Vice President, Policy & Advocacy

cc: Preston Wise
Arielle Roth
Joseph Calascione
Travis Litman
Randy Clarke
Lisa Hone

⁴ *See* Letter from Michael R. Romano, Senior Vice President, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 18-155, 6 (filed Sept. 11, 2019).